

as pension funds, university endowments, and individuals who have at least \$5 million in investments. By taking investment dollars only from sophisticated investors, hedge funds can avoid complying with SEC regulations that apply to mutual funds and other investment funds available to the general public.

Last year, press reports indicate that the top U.S. hedge fund manager made \$1.7 billion in compensation. That's billion. The average compensation for the top 25 hedge fund managers was around \$570 million. Each. Think about that. For comparison, the 2006 median income for U.S. households was less than \$49,000, which is less than one ten thousandth of the income collected by those top hedge fund managers.

Hedge fund managers make their money by charging their clients a management fee equal to 2 percent of the funds provided to the hedge fund for investment and, in addition, by taking 20 percent of the profits earned from those investments. The 20 percent share of the investment returns from hedge funds is known as "carried interest." Under current law, most hedge fund managers claim that this carried interest qualifies as capital gains subject to a maximum tax rate of 15 percent, rather than as ordinary income subject to a maximum tax rate of 35 percent.

When hedge fund managers take 20 percent of their clients' investment returns, they are being compensated for managing those client funds; they are not collecting profits from investing their own money. Characterizing this compensation as capital gains is a tax dodge that has been allowed to go on for too long. This tax loophole allows hedge fund managers to pay a 15-percent capital gains rate on millions—or even billions—of dollars in income. Meanwhile, a receptionist in the same office receiving a \$50,000 salary pays at a regular tax rate. Making a salaried worker pay a higher tax rate than the managers who are making hundreds of millions of dollars is a tax travesty, and it has got to stop.

The House bill would restore fairness by putting an end to this tax loophole. The second provision of the House bill would make it clear that the 20 percent carried interest is, in fact, taxable as ordinary income, making hedge fund managers pay the same income tax rates as ordinary Americans. If enacted, it would raise about \$25.6 billion over 10 years, half the cost of fixing the AMT.

The third provision in the House bill would address a smaller group of hedge fund managers—those routing their compensation through offshore corporations located in tax havens.

The hedge fund managers participating in this tax dodge typically don't live or work in the tax haven where the offshore corporation is incorporated. The offshore corporation often doesn't have any physical presence in the tax haven either—it functions as a shell

company with no full-time employees or physical office. The whole arrangement is a phony setup to enable the hedge fund manager to appear to get paid outside the United States, direct the offshore corporation to place the compensation in an offshore retirement plan, and defer payment of any U.S. taxes on that compensation until sometime in the future. In the meantime, the offshore corporation can invest the funds tax free and accumulate investment returns for the hedge fund manager. The result of all this tricky maneuvering is that hedge fund managers are able to defer U.S. income taxes and circumvent parts of the U.S. Tax Code that limit tax free contributions to retirement plans. Some are able to defer paying taxes on hundreds of millions of dollars of annual income.

The House bill would put an end to this offshore tax dodge by requiring hedge fund managers to pay taxes on any earnings from their deferred offshore compensation, as those earnings accrue. The tax-free ride would be over. If enacted, this provision would raise \$23.8 billion over 10 years.

Requiring accurate reporting of stock profits, applying the same tax rates to carried interest as to the income of ordinary Americans, and taxing deferred offshore investment income are provisions that promote tax fairness and make a lot of sense. Together, these three House provisions would raise more than \$52 billion over 10 years, enough to pay for the entire \$51 billion AMT fix so that we can protect middle class Americans from the AMT sledgehammer without running up the national debt.

So why is the Senate hesitating to enact the House bill?

Some claim that forcing hedge fund managers to pay their fair share of taxes would somehow put an end to the capitalist spirit in America. Whatever the merits of the argument for lower taxes on capital gains, those arguments certainly do not make any sense when applied to income earned for servicing and managing other peoples' capital. Surely the person who earned \$1.7 billion would have had that same capitalist spirit and zeal for investing whether his take home pay was \$1.7 billion or \$1.1 billion.

Some of my colleagues argue that the Senate just should add the \$51 billion cost of the AMT fix to the deficit and leave it at that. But when some taxpayers are given a free ride, the rest will inevitably be asked to make up the difference, whether it is through increased debt or higher taxes down the road. We all know that there is no free lunch, and there is no free tax cut, and history shows that when upper income groups avoid paying taxes, the middle income groups end up footing the tax bill. Unfortunately, some continue to grasp onto the fiscally irresponsible attitude that, in just the last 7 years, has added \$3.5 trillion to the \$9 trillion debt ditch already threatening the economic well-being of the next genera-

tion. And they would dig that debt ditch deeper—instead of paying for the AMT tax cut—primarily to protect hedge fund managers from paying their fair share of taxes.

I don't understand how some can claim that the deficit matters when the debate is over \$22 billion in appropriations for health, education or veterans, but not when the issue is \$51 billion in tax benefits for the wealthiest Americans.

The bottom line is that the House found the political will to impose tax fairness on hedge funds when they passed H.R. 3996. The Senate can and should do the same. If we don't—if we give in to the pressure to break the pay-as-you-go rules that have so far held firm in the Senate—it will be that much easier to break the rules again in the future. Giving up on pay-go would let down American taxpayers who are counting on us to act responsibly and pay for what we legislate.

If the Republican filibuster continues and succeeds, and if we cannot muster 60 votes to break it, we would then be forced with the choice of raising taxes on 23 million working families or violating our pay-as-you-go rules. I would protect my constituents at the expense of an even deeper national debt. But we don't have to go that way, and we shouldn't. With the House bill we can protect our constituents from unintended tax increases, we can ensure fairness in the tax code, and we can avoid increasing the Federal deficit.

I urge my colleagues, Republicans and Democrats, to take a look at the tradeoffs presented in the House bill. The House bill will allow us to fix the AMT for a year, and at the same time ensure that the wealthiest among us contribute their fair share to this great country. I urge my colleagues to take seriously Congress's commitment to fiscal responsibility as well as fairness, and to pass H.R. 3996.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that morning business be terminated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Morning business is closed.

TEMPORARY TAX RELIEF ACT OF 2007—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to

proceed to H.R. 3996, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the bill (H.R. 3996) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Mr. REID. Madam President, it is my understanding there is a motion to proceed that is now before the Senate. I ask to withdraw it.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

Mr. REID. What now is the pending business?

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

Pending:

Harkin amendment No. 3500, in the nature of a substitute.

Reid (for Dorgan/Grassley) amendment No. 3508 (to amendment No. 3500), to strengthen payment limitations and direct the savings to increased funding for certain programs.

Reid amendment No. 3509 (to amendment No. 3508), to change the enactment date.

Reid amendment No. 3510 (to the language proposed to be stricken by amendment No. 3500), to change the enactment date.

Reid amendment No. 3511 (to amendment No. 3510), to change the enactment date.

Motion to commit the bill to the Committee on Agriculture, Nutrition, and Forestry, with instructions to report back forthwith, with Reid amendment No. 3512.

Reid amendment No. 3512 (to the instructions of the motion to commit to the Committee on Agriculture, Nutrition, and Forestry, with instructions), to change the enactment date.

Reid amendment No. 3513 (to the instructions of the motion to recommit), to change the enactment date.

Reid amendment No. 3514 (to amendment No. 3513), to change the enactment date.

CLOTURE MOTION

Mr. REID. Madam President, it is my understanding there is a cloture motion on the Harkin substitute amendment at the desk.

The PRESIDING OFFICER. The motion having been filed pursuant to rule XXII, the clerk will report the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Harkin substitute amendment No. 3500 to H.R. 2419, the farm bill.

Tom Harkin, Russell D. Feingold, Jon Tester, Dick Durbin, Benjamin L. Cardin, Frank R. Lautenberg, John F. Kerry, Ted Kennedy, Byron L. Dorgan, Barack Obama, Ben Nelson, Amy Klobuchar, Sherrod Brown, Sheldon Whitehouse, Tim Johnson, Jim Webb, Hillary Rodham Clinton.

Mr. REID. Mr. President, I now ask unanimous consent that the mandatory quorum call be waived.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. REID. Mr. President, I move to proceed to calendar No. 487, H.R. 3996—I am happy to see my friend, the distinguished Senator from Georgia on the floor. I believe my friend from Georgia knows how hard I have tried to get some way to proceed forward on this farm bill. We don't have farms in Nevada. We do have some. We have lots of ranches. As I have said on the floor before, the one crop we are very proud of is onions. We are the largest white onion producer in the world—in the United States—I am sorry. And in Lyon County, we produce lots of stuff: onions, garlic, and in Mason Valley, lots and lots of alfalfa. The greenbelts of Nevada are shrinking because of the population growth we have. But we still have ranches—ranches that were owned by Bing Crosby—I mean that were famous ranches. They still are. But even they are being hit by the population growth.

We are very proud of our ranching community. There are things in this farm bill that have direct impact on my constituency in the State of Nevada. That is one reason I have tried everything I know to move to this bill.

We have tried moving forward amendment by amendment. The Dorgan amendment under the bill is still pending. That is a bipartisan amendment. I have suggested let's have X number of amendments, and finally I got so desperate I said let's have the Republicans have 10 amendments and we will have 5. Still no takers on that. We heard from Senator HARKIN today who said: Senator CHAMBLISS and I now have the amendments down to less than 40. I said: Oh, good. Let's enter into an agreement that we will have 40 amendments, or whatever it is, and we will proceed to work on those. No time agreements. No deal.

The only agreement we have had on this bill is we have locked in a finite number of amendments. But it is 287 amendments—287 amendments—with issues that are so pertinent to the farm bill, like immigrants' driver's licenses, just for beginners. There have been some suggestions: Well, why don't you just move to the bill. We are in the waning days of this year, and we have to proceed and complete a number of issues. But I was a little bit lax. I said: Well, maybe we are working here, trying to work together on things, and the Amtrak bill hasn't been done for 5 or 6 years and people are crying for something to be done about this. We have one Republican Senator for years who has tried to kill Amtrak. He came very close to it a few times and we always were able to survive. So this year, I said let's move to it. On a bipartisan basis we had people who wanted to do that bill. We opened it up. What is the first amendment? A tax measure. A tax measure. We finally got that bill passed. But we can't on this farm bill open it up.

I have heard the distinguished Republican leader come forward and say: Well, that is what we have done in the past. I have been through this before, but let me repeat for everyone: The average number of nongermane amendments on farm bills has been one—one per bill—one. In my efforts to be fair and to move forward, I said, OK, on the 10 amendments the Republicans want to do on this bill, we will have two of them nongermane. I didn't ask what they would be. There was no taking of that. So I have done literally everything I can do.

The farming and ranching community of this country, they know why we are not moving forward on the farm bill. They know what is going on: The Republicans do not want to move on the farm bill. Maybe they don't care about it. Maybe they think it would be some kind of a victory for Democrats who are in the majority in the Senate—not much of a majority, but we are in the majority. I don't understand what this is all about. But Friday morning we are going to have a cloture vote again. Is that so unreasonable that if people believe in the farm bill, then they would still have 30 hours to offer amendments relating to the farm bill? They would have to be germane amendments. But what would be wrong with that?

We have had one cloture motion. It has been defeated. We have waited weeks now. We have offered all kinds of suggestions to move forward. We have not heard a single proposal back from the Republicans other than to say: Well, open it up for amendments. Open it up for amendments so we can ask that we initiate a flat tax, or open it up to an amendment that we push forward on Bush's tax cuts that have put this country into such a terrible hole financially. That is what the plan is, and we are not going to be a part of that plan. We want to do a farm bill. We want to do it fairly and reasonably.

While we are talking about schedule, I have spoken to the Speaker several times today and she is going to complete either today or tomorrow an energy bill. That being the case, that will come here as a message from the House and we will have a cloture vote on that. The way things now are, if it gets here tomorrow, we will file a cloture motion on that and we will have a vote on that Saturday. So everyone should know that unless there is an agreement to change that, we will have a vote on Saturday. We have Senators leaving for Bali and Senators wanting to go to some celebration at Pearl Harbor, and a lot of other places people want to go. But the country has a lot of business that needs to be attempted to be completed, and we are going to do that. I hope we can work together to solve some of these issues.

But to show the futility of our trying to progress, take, for example, the AMT, this tax proposal which was passed by a former Republican administration. Unless we place a so-called